



BOARD OF APPEALS
Diane R. Gordon, Co-Chair
Harry Miller, Co-Chair
Bailey S. Silbert

Town of Brookline

Massachusetts

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Patrick J. Ward, Secretary

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. BOA 060076

Petitioner, Beaconview Investments LLC, applied to the Building Department for a permit to do renovations at their property at 1600 Beacon Street. The application was denied and an appeal taken to this Board. The petitioner seeks zoning relief for renovations to the parking structure ancillary to their 11 story residential building.

On November 2, 2006 the Board of Appeals met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed July 19, 2007 at 7:45 p.m. in Hunneman Hall, Main Library, as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the petitioners, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published June 28 and July 5, 2007 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEALS
NOTICE OF HEARING

Pursuant to M.G.L., C.39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **BEACONVIEW INVESTMENTS LLC**
Location of Premises: **1600 BEACON ST BRKL**
Date of Hearing: **07/19/2007**
Time of Hearing: **07:45 p.m.**
Place of Hearing: **Main Library, Hunneman Hall, 2nd fl.**

A public hearing will be held for a special permit and/or variance from:

- 1) **4.03; Pre-Existing Special Permit Uses, Special Permit Required.**
- 2) **5.09.2.a.d; Design Review, Special Permit Required.**
- 3) **5.09.3.e; Plan Revisions, Special Permit Required.**
- 4) **Board of Appeals Decision; Case #964, dated August 28, 1959; Modification**

Required

Of the Zoning By-Law to remove the roof of the existing parking garage and to construct a ramp and new roof to accommodate additional roof top parking and to construct assoc at **1600 BEACON ST BRKL.**

Said Premise located in a **M -1.5** District.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

**Diane R. Gordon
Harry Miller
Bailey S. Silbert**

This hearing was initially scheduled for January 11, 2007. Due to questions which arose during the Planning Board Hearing, the applicant, through his attorney, waived the statutory time limits and requested an extension on this appeal. The hearing was re-advertised and notification made as required by statute. Present at the hearing was Chair, Lawrence Kaplan and Board members Bailey Silbert and Murray Shocket. The petitioner's proposal was presented through their attorney, Jeffery

P. Allen of Seegel, Lipshutz and Wilchins, P.C., 20 Williams Street., Suite 130, Wellesley, MA 02481.

Attorney Allen described the site as a large lot located on the corner of Westbourne Terrace and Beacon Street. Situated on the lot is an 11-story building with 125 residential units that recently had undergone extensive renovation. To the rear of the building is a two-story parking garage with 98 spaces with access off Westbourne Terrace. The roof of the garage was previously used for cabanas and locker rooms for a now-abandoned swimming pool also located on the roof. The surrounding properties consist of mixed use types, ranging from single, two and three family dwellings to large condominium and apartment buildings, to small commercial and residential buildings. Attorney Allen described the petitioner's proposal to remove the current roof of the parking structure and replace it with a new concrete deck, which would be used for parking and open space. The new upper deck would provide twenty (20) additional parking spaces and landscaping. The swimming pool would be removed and a new ramp providing access from the lower to the upper deck built in its place. The new deck and ramp would be constructed on the same footprint as the existing structure.

He said the proposal would increase the number of parking spaces from 98 to 116. Additionally, it would increase the square footage of usable open space; the current parking roof deck does not qualify as usable open space because it does not meet current structural code for places of assembly. In order to facilitate access for the disabled, the petitioner is proposing to install a wheelchair lift between the second and top floors of the parking structure. The lift will be situated next to the stairway, and covered by a pitched-roof enclosure with a façade featuring fiberglass columns, PVC trim and roof shingles. A 42" high parapet wall with metal railing will be constructed around the perimeter of the roof deck.

Landscaping on the new deck will consist of a combination of hardscape elements (concrete pavers), synthetic turf and a "green roof" system. The green roof portion of the landscaping will consist of 4" and 10" depth plantings that rest upon the concrete deck. Various layers of synthetic material will rest beneath the landscaping, creating a base for topsoil which will allow for plant growth and drainage. Additionally, a "green screen" will be placed along the southern portion of the roof deck parapet wall, facing the building, to facilitate the growth of vines and shield residents of the building from headlight glare. The petitioner will also be planting 6 deciduous trees around the perimeter of the parking structure, as part of a vegetated swale to control drainage.

Lighting for the parking area will consist of five (5), 14' pole top luminaries with a downward facing light shade. The access ramp will be lit using three (3) wall mounted, downward facing luminaries. The concrete walkway and wheelchair lift/stair way shelter will be lit using a combination of lighted bollards and flush-mounted uplights.

At the request of the Planning Board following an April 5, 2007 site visit, several meetings were held between Nordblom Company, Cameron Pforr (owner of 78 Lancaster Terrace) and the Planning Department regarding slope conditions and drainage along the property line with 78 Lancaster Terrace. Cameron Pforr has communicated that he wishes to stabilize and level the southern corner of his lot, and Nordblom Company have created a slope and drainage plan to address this need. In order to mitigate erosion along the property line, the petitioner is proposing to stabilize the slope with fill to create a 1/1.5 slope, and install coconut blanket and seed mix to establish vegetation in the area. Additionally, the petitioner has contributed to the design of a retaining wall and re-grading plan for the southern corner of 78 Lancaster Terrace, to be implemented by the owner of 78 Lancaster Terrace. The petitioner will also be installing a new chain link fence along the property line. The petitioner has submitted an assessment on the

condition of the existing retaining wall and slopes on the property, which was conducted by Joel S. Mooney, P.E. of Haley & Aldrich, Inc.

Attorney Allen stated that his client needed relief from the following sections of the zoning bylaw:

Section 4.03 – Pre-Existing Special Permit Uses

Any change in use or structure for any lawful use that would have required a special permit if established at this time requires a special permit.

Section 5.09.2(a)(d) – Design Review

Any exterior alteration to a structure or outdoor use that is on a lot located within 100 feet of Beacon Street or has more than ten (10) dwelling units, requires a special permit subject to the design review standards listed under Section 5.09.4(a-1). The most relevant sections are described below:

- a. *Preservation of Trees and Landscape*: Though the proposal does not involve any naturally existing trees or vegetation, the proposal does involve increasing the total amount of landscaping on the site by making use of the parking garage's upper deck. The applicant will also be planting trees around the parking structure, as well as adding vegetation to the slope adjacent to Lancaster Terrace.
- b. *Relation of Buildings to Environment*: The proposal does not involve extending the parking garage over more lot area, and the parking garage will have largely the same dimensions as it had previously.
- c. *Open Space*: The proposal increases the amount of usable open space available to the building's residents by removing the structures and pool on the roof of the parking garage, which were in poor condition, and installing landscaping in addition to parking spaces.
- d. *Circulation*: The proposal does not increase the number of access points to public streets. The proposed ramp to access the upper deck is of sufficient width for two-way use, and circulation of vehicles within the new parking area is not expected to be unsafe or difficult.

Section 5.09.3.e – Plan Revisions

Revisions to a plan after the close of a Board of Appeals hearing that affect or alter the visual appearance of the façade, roof, or cornice line, or modifies the site plan, must be referred to the Planning Board for its recommendation in accordance with the design review standards listed under Section 5.09.4(a-1) and to the Board of Appeals for any action it deems appropriate.

Modification of previous Board of Appeals Decision, Case #964, August 28, 1959.

The Chair asked whether anyone would like to speak in favor or in opposition to the proposal. William L. Gardner of 2 Mason Terrace rose to speak. He said he lived across the street from the proposed project. He said that he was initially dismayed that the owner had not decided to cover the parking garage but acknowledged that additional parking is not a bad thing. Mr. Gardner said that

he has been unofficial steward of about 75 steps of Summit Path for the last 10 years. Summit Path abuts the subject property to the East. He expressed concern about what the petitioner was going to do regarding the condition of the path adjacent to their property and the slope leading toward the path. He stated that the property abutting the apartments walking up the path from Beacon Street was an eyesore with broken glass, fallen vegetation and problem soil. He stated that if the Town were considering a variance for the property that landscaping work be done to the upper slope along Summit Path. Mr. Kaplan explained that a landscape plan was one of the proposed conditions for relief and it will be reviewed by the Assistant Director for Regulatory Planning. Ms. Curtis, planner, stated that when the landscape plan is submitted, care will be taken to ensure the entire upper slope of the petitioner's property is included. Mr. Allen stated that the petitioner was going to improve the slope on their property to include replacement of the old fence. Mr. Stephen E. Logan of Nordblom Company, the developer and manager of the condominium complex, stated that they intended to do landscape improvement on the entire hillside, that it had been let go for a number of years and they intended to improve this as the project goes forward. Mr. Kaplan advised Mr. Gardner to keep in touch with the Planning Department.

Mr. Silbert raised a non-zoning issue regarding accessible means of egress from the upper level of the garage. He was concerned that there was only one accessible means of egress from the parking deck.

Lara Curtis, representing the Planning Board delivered the Planning Board Comments. She said that the Planning Board is not opposed to the removal and reconstruction of the parking garage's roof to provide for additional parking spaces and usable open space. The proposal involves the removal of accessory structures and a pool, all in poor condition, and brings the site closer into compliance with the zoning bylaw with respect to both parking and usable open space. The new

rooftop parking area is appropriately designed and circulation within it should be safe and clear.

The rooftop will also provide additional landscaping by utilizing a green roof.

The Board noted there have been complaints from abutters regarding soil erosion and the condition of the stone and brick retaining wall which borders the northern perimeter of the property for approximately 300 feet. The wall is in disrepair, and there is evidence of erosion on both the subject and adjacent properties. This information is also stated in the assessment conducted by Haley & Aldrich, Inc. The petitioner has proposed to add fill to reduce the slope to a pitch of 1/1.5, and install coconut blanket and vegetation for stabilization. To ensure the proposed erosion mitigation measures are sufficient, the petitioner should submit the proposed grading, drainage & slope improvement plan to the Town Engineer for review and approval.

The chain link fence which runs along the rear property line is in disrepair. The petitioner has stated he will install a new chain link fence along the rear of the property.

The Board has concerns that the light shades on the proposed 14' pole top luminaries are too short, leaving a large portion of the bulb exposed. The design of these fixtures may not adequately shield adjacent properties light glare. The petitioner should select light fixtures that reduce the impact of light glare on neighboring properties.

Ms. Curtis said that the Planning Board recommended approval of the proposal and the plans prepared by Meridian Associates and last dated June 15, 2007, subject to the following conditions:

1. Prior to issuance of a building permit, a final landscaping plan, indicating plant types and locations and paving materials, shall be subject to the review and approval of the Assistant Director for Regulatory Planning.
2. Prior to issuance of a building permit, the petitioner shall submit an erosion and stabilization plan for the slope between the parking structure and the rear property line, subject to the review and approval of the Town Engineer, with a copy of the approved plan submitted to the Planning & Community Development Department.

3. The petitioner shall install a new chain link fence along the rear property line, to replace the existing fence which is in disrepair.
4. All lighting fixtures installed on the upper parking deck shall be full cutoff lighting fixtures or otherwise designed and installed so as to reduce the impact of light glare on neighboring properties, and shall be subject to the review and approval of the Assistant Director for Regulatory Planning.
5. All parking spaces shall be appropriately striped.
6. Prior to obtaining a building permit, the petitioner shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; 2) final building elevations of the garage and ramp stamped and signed by a registered architect or engineer; 3) a final landscaping plan stamped and signed by a registered landscape architect or architect; and 4) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chair then called on Frank Hitchcock representing the Building Department. Mr. Hitchcock described the project for the Board. He said that basically there were no zoning issues with what the petitioner proposes to do, that there was no dimensional relief required for the proposal. He said relief was needed under **Section 4.03**. The project is on Beacon Street and any change to the structure that would have required a special permit if established at this time requires a special permit. Relief is also needed for Design Review, **Section 5.09.2(a)(d)**. Since the project is within 100 feet of Beacon Street and has 10 or more dwelling units, it is subject to Design Review. Since the premise was the subject of a previous Board of Appeals hearing and changes were being made to the roof, façade and/or cornice line, a special permit is required under **Section 5.09.3.e** of the zoning bylaw. Mr. Hitchcock stated that the property was the subject of relief from the Board of Appeals in case #964 dated August 28, 1959, that the decision should be modified accordingly. He said that the addition parking spaces should be encouraged and that the Building Department has no objection to the proposal, no objections to the zoning relief that is required and no objection to the conditions recommended by the Planning Board. As to Mr. Silbert's comment regarding accessible egress he stated that he did not have enough information at this time, that the application will be

subject to plan review for compliance to all applicable codes and if necessary, the petitioner will make modifications to the plans and may have to come back before the Board.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that is desirable to grant Special Permits under Section 4.03, Section 5.09.2.a.d, and Section 5.09.3e of the Zoning Bylaw and a modification to previously granted relief, case #964.

The Board makes the following findings pursuant to Section 9.05:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Therefore, the Board voted unanimously to grant all the Special Permit relief with the following conditions:

1. Prior to issuance of a building permit, a final landscaping plan, indicating plant types and locations and paving materials, shall be subject to the review and approval of the Assistant Director for Regulatory Planning.
2. Prior to issuance of a building permit, the petitioner shall submit an erosion and stabilization plan for the slope between the parking structure and the rear property line, subject to the review and approval of the Town Engineer, with a copy of the approved plan submitted to the Planning & Community Development Department.
3. The petitioner shall install a new chain link fence along the rear property line, to replace the existing fence which is in disrepair.
4. All lighting fixtures installed on the upper parking deck shall be full cutoff lighting fixtures or otherwise designed and installed so as to reduce the impact of light glare on neighboring properties, and shall be subject to the review and approval of the Assistant Director for Regulatory Planning.
5. All parking spaces shall be appropriately striped.

6. Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; 2) final building elevations of the garage and ramp stamped and signed by a registered architect or engineer; 3) a final landscaping plan stamped and signed by a registered landscape architect or architect; and 4) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals

Lawrence E. Kaplan
Lawrence E. Kaplan

Filing Date: August 14, 2007

A True Copy:

ATTEST

Patrick J. Ward

Patrick J. Ward

Clerk, Board of Appeals

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